

MONTANA DEPARTMENT OF TRANSPORTATION

CIVIL RIGHTS NEWSLETTER



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EE0-5 REPORTS FOR JULY 1991

The Federal Highway Administration (FHWA) requires an EE0-5 report from every contractor who worked during the month of July. These reports are to be sent directly to the Civil Rights Bureau (CRB), **no later than Monday, August 12, 1991.** *Each prime contractor and all subcontractors must provide a report for each federal-aid project worked on during the month of July.* Instructions for completion of the EE0-5 are printed on the form.

The EE0-5's have been provided to all active contractors and subcontractors under a separate mailing. However, an EE0-5 form may be reproduced from the CRB manual, page I.C.18.

If any additional information is required, please contact Sam Prestipino at (406) 444-6331.

NOTICE

We are going to revise our mailing procedures, due to the quantity of mail being returned to us with either incorrect addresses or forwarding orders expired. It is your responsibility to advise us of any update or change to your address. Once a piece of correspondence is returned to the Civil Rights Bureau, the firm's name will be immediately removed from our mailing list. Inclusion on our mailing list will require notification from you.

Please notify the Civil Rights Bureau of the Montana Department of Transportation at (406)444-6331 when you change your firm's mailing address. If you have any questions, please call.

**TWO CONSTRUCTION COURSES OFFERED
AT GREAT FALLS VO-TECH CENTER**

The Great Falls Vocational-Technical Center in Great Falls will offer two construction related classes in January 1992. These courses are **INTRODUCTION TO CONSTRUCTION** and **INTERMEDIATE CONSTRUCTION**.

The **INTRODUCTION TO CONSTRUCTION** course includes: an introduction to city and regional planning, construction management, construction contracting, labor management relations, surveying and mapping, designing and engineering, construction materials, construction drawings and specifications, estimating and bidding, scheduling and purchasing, construction equipment, foundations, structures and utilities.

The **INTERMEDIATE CONSTRUCTION** course includes: architectural, structural, mechanical, and electrical drawings; front end documents and specifications; estimating (introduction and basics) and project scheduling.

These classes last from January to March and are three credit courses. They are part of the Business Management/Entrepreneurship Program.

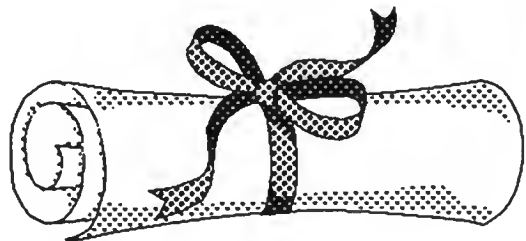
The cost of these classes are: \$10 one time tuition fee*, \$121 - for a 3 credit course, \$27 for the Introduction to Construction Manual, and \$25 for the Construction Dictionary (optional).

The professor will be architect Dick Stevens.

The classes will only be offered if there is adequate participation - a minimum of 10 - 15 students is required.

If there is any interest in either of these courses, contact the Great Falls Vocational-Technical Center at 771-7140 or Jan Livesay at 727-1316. The classes are sponsored by the Great Falls National Association of Women in Construction.

*For those students who haven't been enrolled at the Vo-tech previously.



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The Civil Rights Newsletter is published on a semi-annual basis by the Montana Department of Highways' Civil Rights Bureau.

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1991 MONTANA BID LETTINGS

The Montana Highway Commission has approved the following bid letting dates for 1991.

July 25, 1991
August 22, 1991
September 26, 1991
October 24, 1991
December 5, 1991

1991 BID LETTING DATES

Following are the 1991 schedules of bid lettings for North Dakota, South Dakota and Wyoming.

North Dakota

July 26, 1991
September 20, 1991
November 15, 1991

South Dakota

July 17, 1991
August 14, 1991
September 18, 1991
October 16, 1991
November 13, 1991

Wyoming

July 9, 1991 (Evanston)
August 8, 1991
September 12, 1991 (Rawlins)
October 17, 1991
November 14, 1991 (Douglas)
December 12, 1991
January 15, 1991

NEW IMMIGRANT LAW BRINGS CHANGES

President Bush recently signed into law the Immigration Act of 1990. Here's what the new law does:

- **Increases the number of** employment-based immigrants admitted into the country from 54,000 annually to 150,000, with special emphasis on highly skilled workers.
- **Adds two new offenses** for which an employer can be held liable for discrimination:
 - (1) retaliation against any person who intends to file or who files a complaint or a charge against the employer, or who testifies, assists, or participates in an investigation, proceeding, or hearing against the employer;
 - (2) prohibits employers from requesting more or different documentation of job applicants from those required under IRCA to establish employment verification. Also, refusal to honor documents that

reasonably appear to be genuine will be treated as discriminatory.

- **Covers seasonal agricultural workers under IRCA's anti-discrimination section.**
- **Eliminates employment verification requirements for employment recruiters and referrers.**
- **Requires employment verification forms, which must be retained by employers for three years, to be available for inspection by representative of the Special Counsel's Office, the INS and the DOL.**
- **Imposes penalties for violating the anti-discrimination portion of the law equal to those imposed on employers for hiring illegal aliens. First time finding of discrimination will bring not less than \$250 and not more than \$2,000 for each individual (up from the \$1,000 originally provided in IRCA). Second instances of discrimination will bring penalties of \$2,000 to \$5,000, and subsequent violations will range from \$3,000 to \$10,000 for each individual.**

(Excerpt from *The Fact Finder*)

SUPERVISOR'S CORNER

A SUPERVISOR'S GUIDE TO HUMAN RELATIONS

Being viewed by your employees as a "Leader" and not merely a "Boss" requires that you invest the time and effort to demonstrate to your people that you are the person they should look to for direction. The

following suggestions should be of help:

- 1) **WIN RESPECT.** If people respect you they respect your honesty and have confidence in what you say.
- 2) **AVOID ARROGANCE.** The wise guy has a self-imposed handicap. People resent him. If you use a "now I'm going to tell you what to do" approach, you build in resistance to the best of your ideas.
- 3) **DON'T SHUT DOWN THE OPPOSITION.** Listen to all criticisms of your proposal in an objective manner. If you have the facts to overcome them, use them. But if a flaw is uncovered, thank the person who exposed it and ask for help. He'll probably end up on your side.
- 4) **PICK THE RIGHT TIME.** The best proposal won't get a good hearing if it's pushed at the wrong time. Use judgement. Make sure your ideas are presented to a receptive audience.
- 5) **DON'T OVERSELL.** Be factual. Never claim more for your plan than it can accomplish. Exaggeration may obscure its real merit. When you have convinced someone to accept your suggestion, stop talking.
- 6) **PITCH TO THE POSITIVE.** It's simply good salesmanship. A negative approach may provoke a negative reaction.
- 7) **BE WELL PREPARED.** Sloppy presentations are great spoilers of good ideas. Do your homework. Have fact,

figures and detail at your fingertips.

and otherwise qualified by the SBA.

- 8) BE PREPARED FOR OBJECTIONS.
Analyze your idea and try to spot in advance objections that may occur.

Some non-competitive, negotiated contracts are eligible in accordance with the appropriate Federal regulation.

SURETY BOND GUARANTEE PROGRAM

Size of Eligible Contracts

The SBA can guarantee bonds for contracts up to \$1,250,000.

Who Can Benefit?

Any qualified small business contractor required to have a bid, performance, or payment bond in order to obtain a bond unless guaranteed.

What Does SBA Guarantee?

In consideration of SBA's charge to the Surety Company of part of the gross bond premium, SBA guarantees the Surety Company against a percentage of its loss sustained on contracts up to \$1,250,000 in face value.

Eligibility

Businesses in the construction and service industries are eligible under the SBA's size standards if the average annual receipts for the last three fiscal years, including affiliates, do not exceed \$3.5 million. The local SBA office answers questions concerning size standard eligibility.

Duties of Contractor

The contractor makes application for a specific bond with an agent/surety company of his/her choice by providing background, credit and financial information required by agent/surety company and the SBA. For this purpose information gathering forms must be completed, including those required by SBA:

Types of Eligible Bonds

Any contract bond (bid, performance or payment) is eligible for SBA guarantee if the bond is:

SBA Form 994: Application for Surety Bond Guarantee Assistance

SBA Form 912: Statement of Personal History (on first application and once every two calendar years thereafter)

SBA Form 994F: Schedule of Uncompleted Work on Hand (required initially and then at least quarterly)

- 1) Covered by the Contracts Bonds Section of the Surety Association of America Rating Manual;
- 2) Required by the invitation to bid; or
- 3) Executed by a Surety Company that is acceptable to the U.S. Treasury (Circular 570)

Duties of Agent/Surety Company

Once the contractor has completed these forms and has furnished the agent/surety company with sufficient underwriting information, the agent/surety company is to process and underwrite the application data furnished by the contractor in the same manner as any other contract bond application. The agent/surety company decides whether to:

- 1) Execute the bond without SBA's guarantee;
- 2) Execute the bond only with SBA's guarantee; or
- 3) Decline the bond even with SBA's guarantee.

If the agent/surety company decides it can execute the bond only with SBA's guarantee, the next step is completing an *Underwriting Review (SBA Form 994B)*, the *Guarantee Agreement (SBA Form 990)*, and the *Guarantee Agreement Addendum (SBA Form 991)*, when required. These forms are submitted along with the 994, 912 and 994F, to the appropriate SBA office requesting the SBA's guarantee. If a final bond is being applied for, contractor's guarantee-fee check must be attached.

Duties of SBA

SBA will determine performance capacity upon review of the information, documentation and underwriting rationale provided by the surety. If performance capacity has been established and all other aspects of the application have been approved, the Guarantee Agreement will be

signed by a duly authorized SBA official and returned to the surety. If performance capacity is not self-evident in the surety's presentation, SBA will seek clarification from the surety underwriter or agent. If performance capacity cannot be reasonably assured, SBA will decline the guarantee application.

The Cost of an SBA Guaranteed Bond

SBA charges a fee to both the contractor and the surety company, cited in the most recent edition of 13 CFR 115, as follows:

- 1) The small business concern shall pay SBA a guarantee fee of six dollars (\$6) per thousand of the contract amount.
- 2) When the bond is issued, the small business concern will pay the surety company's bond premium. This charge cannot exceed the level approved by the appropriate state regulatory body.
- 3) The surety company pays SBA a guarantee fee as determined by SBA.

For more information, contact the U.S. Small Business Administration at 449-5381.

NEW AMERICANS WITH DISABILITIES ACT WILL HAVE BOTH REWARDS AND PENALTIES

By Katie Northrup-Fox

One out of every six Americans - 43 million people - have some

kind of disability. Last summer President George Bush signed into law the Americans with Disabilities Act (ADA), which recognizes the needs of disabled persons for improved access to jobs, work places and commercial spaces.

Architects, contractors and building owners are all affected by ADA and need to understand how to bring their projects into ADA compliance.

"Accessibility," according to the United States Architectural and Transportation Barriers Compliance Board, means design features such as ramps, easy-to-open doors, lowered water fountains and light switches, rest rooms with maneuvering space, elevator control panels with raised letters and buttons and visual fire alarms.

The ADA requires that public accommodations and commercial buildings be accessible to people with disabilities, both employees and customers. The Act covers existing buildings, as well as new construction.

Total renovation of existing buildings is not required by ADA; but it does require buildings be reasonably accessible to people with disabilities, if those changes are "readily achievable." Deadlines for compliance are January 26, 1992, for businesses employing 25 or more; July 26, 1992, for businesses employing 10 to 25; January 26, 1993, for businesses employing 10 or fewer.

The ADA does not affect single - or multi-family housing. And in cases where architectural changes are not feasible, a building

owner is required to deal with accessibility in some other manner - through policy changes, for example.

To determine if architectural changes are "readily achievable", several factors are considered by the Act; including, cost of the change, financial resources of the operation, work force size, and impact of the change on the operation. Changes considered "readily achievable" by the ADA include installation of a bathroom grab bar; stoops that can be ramped; and removal of fixtures that block an otherwise accessible entrance. According to a survey by the Architectural and Transportation Compliance Board, 88 percent of accessibility changes in the work place cost under \$1,000; 19 percent cost less than \$50; and 19 percent cost between \$50 and \$500.

New construction that is ready for occupancy more than 30 months after the date of enactment must meet accessibility standards. In most cases, the cost to comply is minimal for new construction.

The Act does not require elevators in new or existing buildings that are less than 3 stories high, or have fewer than 3,000 square feet per story. The exceptions are shopping malls and medical offices.

There are tax benefits for businesses that comply with ADA: small businesses (with gross receipts of \$1 million or less, or fewer than 31 full-time employees) can take a tax credit of up to \$5,000 for eligible access expenditures in compliance with ADA; all businesses, regardless of size, are eligible

for the Internal Revenue Code Section 190 architectural and transportation barrier removal deduction, which is set at \$15,000 of expenses.

Those who fail to comply with ADA face discrimination complaints, expensive redesign and construction and, possibly, monetary penalties.

For information on ADA and its requirements, contact the Architectural and Transportation Barriers Compliance Board, 1111 18th Street NW, Suite 501, Washington, DC 20036-3894; or your local American Institute of Architects chapter.

(Excerpt from *The May 13, 1991 Intermountain Contractor*.)

SPECIAL SBA LOANS

In an effort to meet the needs of early-stage and service businesses, the U.S. Small Business Administration has moved to make loans under \$50,000 more easily available. The SBA traditionally makes larger loans, averaging \$190,000 and going up to \$750,000 through its program of loan guarantees.

Through the SBA's Small Loan Program, entrepreneurs can apply to banks and other lenders for smaller loans subject to approval by the lender and the SBA. The SBA guarantees such loans up to 90 percent.

By allowing lenders to charge slightly higher interest rates than previously allowed, the SBA has provided a new incentive to provide such loans. For further

information, contact your local SBA office.

Effective Cash Management

Two recent books provide important pointers to business owners on how to plan for uncertainty and make the most of their cash resources.

One book, How to Really Create a Successful Business Plan, provides excerpts from the start-up and operating business plans of Pizza Hut, Celestial Seasonings, Dan & Jerry's Ice Cream, People's Express and Software Publishing. It also uses hypothetical cash flow and other cash management tools (Goldhirsh Publishing, Boston).

The J.K. Lasser Institute's How to Run a Small Business (Sixth Edition) provides nuts and bolts information about obtaining loans, accounting and record systems, and extending credit to customers among other issues. (McGraw-Hill Book Company - New York).

U.S. Small Business Administration has a number of business development publications on financial management. A copy of the "Small Business Directory" lists SBA publications and videotapes. To obtain a copy, call 1-800-UASK-SBA.

(Excerpt from the *Working Woman Magazine*)

COURTS ADOPT "REASONABLE WOMAN" TEST IN SEXUAL HARASSMENT CASES UNDER TITLE VII

The ninth circuit and a federal district court in Florida have

adopted a "reasonable woman" test to determine whether a female employee suing for sexual harassment under Title VII has been subjected to an illegal, hostile work environment. This standard is appropriate because women and men perceive sexual harassment differently and a woman's viewpoint must be considered if sexual inequality is to be eliminated in the workplace.

The court in Florida indicated that sexually oriented pictures may create a work environment that violates Title VII.

In the Florida case, a female welder worked for a shipyard where only 5% of the crafts persons were women. She complained that pinup calendars and pictures of nude and partially nude women were pervasive through out the shipyard. She also stated that she was subject to sexual comments from her male coworkers and that she was further harassed by coworkers and supervisors after she complained of the pictures.

Viewing the employee's claim from the perspective of a "reasonable woman," the district court "held that the pictures of nude and partially nude women and the sexual comments created a hostile work environment." The cumulative, corrosive effect of this environment would affect the psychological well being of a "reasonable woman". The court rejected the authority that such pictures and comments standing alone cannot form the basis of a harassment claim because women are exposed to them throughout society. The court indicated

that pornography in the workplace may be more of a threat to female employees than it is to women in the "world at large" because while women may be able to protest or avoid pornography outside of the workplace, they may be captive to it in the workplace. Moreover, its presence in the workplace contributes to sexual stereotyping, whereby women are evaluated in terms of their sexuality and not on their merits as employees.

SELF-ANALYSIS OF EQUAL EMPLOYMENT OPPORTUNITY

Equal Employment Opportunity (EEO) is the hiring or promotion of any person on the individual's ability, qualifications, or potential, in other words, on the person's merit. It is not so simple to know exactly how to provide merit employment or Equal Employment Opportunity. The process of analyzing the problem, proposing solutions to the problem, adopting a solution, and following it up to ensure the plan is being carried out is an effective approach and can be applied to the EEO analysis. Companies and EEO personnel have found this basic four-step approach to be helpful.

- 1) Analyze the company's present posture with regard to EEO.
- 2) Develop administrative procedures to implement a plan of affirmative action; (FHWA Interim Order 7-2(1)).
- 3) Communicate this plan to all employees; and

- 4) Follow up to ensure the plan is being enacted.

Below is a list of questions compiled by several companies and EEO officers concerning Equal Employment Opportunity. This list of questions can be very helpful in reviewing ones EEO progress.

Internal Communications

- 1) Are all supervisors and employees provided with orientation lectures or training programs on Equal Employment Opportunity to ensure familiarity with your policies?
- 2) Are minority and female applicants periodically interviewed about their views and attitudes with respect to Equal Employment Opportunity compliance and progress?

Community Relations

- 1) Are you, or someone in your organization, in regular systematic contact with minority group leaders and spokesmen in your community?

Recruiting

- 1) Do you actively solicit qualified referrals from minority employees?
- 2) Are all applicants considered solely on the basis of their qualifications for job openings for which they have applied?
- 3) Is the initial job in which a new employee is placed determined or materially

influenced by whether or not the person is male or female, or if he or she is a member of a minority group?

- 4) Are you aggressively seeking more qualified minority and female candidates in all areas of your organizations?
- 5) Does your organization have a system through which it is possible to verify the number of minority and female workers employed or promoted in reference to the number of openings available?

Selection, Placement and Promotion

- 1) Are promotions and/or transfers of your employees from one job or unit to another made without regard to race, religion, color, age, sex, or national origin?
- 2) Are your educational prerequisites for all applicants fair, equitable and realistic?
- 3) Do you regularly review the qualifications of all employees, including those of minority background, to ensure that they are considered for promotion and upgrading?
- 4) If you use tests in your selection process, are they administered equitably and are the test standards identical for all applicants?

Training

- 1) Do you provide formal or informal training to enable your employees to become better qualified and thus

eligible for promotion or upgrading?

- 2) Are all qualified applicants given equal opportunity for training?
- 3) Do minority and female workers, especially those in low skill jobs, take advantage of training opportunities in numbers that are representative when compared to the size of the work force?

Administration and Follow-up

- 1) Have you taken steps to ensure that your work areas, departments, facilities, or programs are not racially segregated?
- 2) Is the prevailing attitude in your organization one of honest acceptance of your EEO policies?
- 3) Has an Equal Employment Officer been designated at your location? Does such a person have adequate responsibility and authority for coordinating compliance with the company's Equal Employment Opportunity policies?

Subcontractor

- 1) Have you instructed your subcontractors to take the same kind of "affirmative action", as appropriate, to ensure EEO on the project?
- 2) Have you made follow up visits on subcontractors to see that they comply with the Equal Employment Opportunity Provisions of their contract?

Sexual Harassment

- 1) Have you developed a sexual harassment policy?
- 2) Has the sexual harassment policy been disseminated to supervisors?
- 3) Do your employees know who to talk to and what procedures to take if sexual harassment is occurring?

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